IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.9012 OF 2004

Shri Girish Keshavrao Hadke .. ..Petitioner

Versus

University of Pune & Ors. .. ..Respondents

WITH

WRIT PETITION N0.9014 OF 2004

Shri Milind Bhaskar Waghmare .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9017 OF 2004

Smt. Vaishali Bhalchandra Bhoite ..Petitioner

Versus

University of Pune and ors. ..Respondents

WITH

WRIT PETITION NO.9025 OF 2004

Shri Narayan Vasudeo Mule .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9026 OF 2004

Shri Vaibhav Madhusudan Limaye .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9027 OF 2004

Shri Umesh Sambhaji Zapke .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9028 OF 2004

Shri Swapnil S. Kulkarni .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9029 OF 2004

Shri Sanjay Laxman Shinde .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9030 OF 2004

Shri Shekhar Ramesh Joshi .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

WITH

WRIT PETITION NO.9031 OF 2004

Shri Sunil Sadashiv Shinde .. ..Petitioner

Versus

University of Pune and Ors. .. ..Respondents

Mr.A.V.Anturkar for petitioners in all matters

Mr.M.H.Solkar, AGP for State in all matters

Mr.Girish Kulkarni for Univeristy in all matters

Mr.S.S.Pakale for Union of India in all matters

CORAM : P.V.KAKADE, J.

DATE : 3RD FEBRUARY, 2006.

P.C.:

1. Heard the learned counsel for the petitioners as well as for respondents.

2. The petitioners have taken exception to the order passed by the Presiding Officer, College Tribunal, Pune University, Pune dated 1.10.2004 dismissing in all 10 appeals by common judgment in respect of termination order issued by the University against them.

3. The brief facts involved in the matter are thus -

. The University Grants Commission (UGC), New Delhi had introduced a Scheme of University Science Instrumentation Centre i.e. USIC in various Universities of India, one of which was University of Pune. It was the case of the petitioners that the UGC had sanctioned permanent posts for USIC Scheme. It was further case of the petitioners that the USIC Scheme sponsored by UGC, New Delhi was the permanent in nature and UGC agreed to give financial assistance to various Universities. The Scheme was started in the year 1977 in the University of Pune.

. All the petitioners allegedly appointed against the permanent posts for probation of two years and the

petitioners further claimed that after successful completion of two years they have become permanent employees of University. The Petitioners-appellants made serious grievance about termination of their services which was contrary to the provisions of law. According to them, there was no reason assigned by the University to terminate the services of the petitioners and before termination no enquiry was held and no opportunity was given to them to be heard, and therefore, the termination order was illegal and hence the same was liable to be set aside and thus they claimed continuity of service and reinstatement in service with full backwages.

. The appeals were filed under Section 59 of the Maharashtra Universities Act, 1994. The learned Presiding Officer, Pune University after hearing both the parties came to the conclusion that the appeals had no merits and deserves to be dismissed and accordingly order was passed, hence the present petition.

4. At the outset, it may be noted that the only question for my consideration in this matter is whether the appointment was against the permanent post or was on purely on ad-hoc or contractual basis and therefore, the

appointments came to an end by efflux of time and if so whether the petitioners had right to continue in the said post.

5. In this regard, after hearing both the parties and perusal of the documents on record including the appointment letter, it is quite apparent that the advertisement was published on 16.12.1998. It is an admitted fact that in response to the said advertisement all the petitioners submitted their applications for the posts advertised and were selected and appointed on various posts. The University of Pune had also placed on record letter dated 31.8.1998 of UGC. By this letter, the UGC extended the period of Scheme for another five years. The advertisement made it clear that the posts for which the applications were invited would last long only for the period of five years. It was also made clear that the appointments would be made on temporary basis for not more than five years and it is also clear from the appointments letter that the appointment of the petitioners were made only upto October, 2003 and that too on contractual basis. It further shows that after efflux of period of five years, the appointee had no right in the post. One of the conditions of the appointment order was that the appointee

should execute an agreement on Stamp paper and therefore, it is not in dispute that in response to the terms and conditions of the appointment order, all the petitioners executed agreement for appointment on fixed term basis.

. The record further shows that the petitioners were appointed under the Scheme which is known as UGC-124 Scheme of Department of Instrumentation Science of the University and all the appointments of the petitioners were made on contractual basis for fixed period and which came to an end on 31st October, 2003. Therefore, it is clear that after efflux of time, the petitioners are not supposed to claim any right to be appointed regularly in the service of University or for regularisation of the service and as such the termination order was held legal and proper by the lower court.

6. The learned counsel for the petitioners vehemently urged that by Circular No.270 of 1989 the University converted the USIC Scheme into University Science Instrumentation Department and therefore, the University cannot take stand that USIC Scheme had come to an end for want of funds which was stopped by the UGC. It is required to be noted that all the petitioners were

appointed under the newly formulated Scheme itself much after the year 1989 and therefore, it cannot lie in their mouth that they are entitled to continuation of their services by virtue of Circular dated 21.9.1989 issued by the University. It was further urged that though the services of the petitioners are terminated the department continues to work at much higher expenses and therefore, without claiming right of regularisation the petitioners should be allowed to continue in the service pending fresh appointments in the department. However, in that regard the University has clarified the position that the Department of Instrumentation Science of the University is manned by five substantive posts, such as Professor- 1 post, Senior Technical Assistant - 3 posts and Technician-C grade 3, and the State Government has taken over the financial liability of the said posts. Under the circumstances, it cannot be said that the department is in the control of the University and thus in the result the petitioners cannot claim any right against the said post, which were purely on ad-hoc and temporary basis.

7. The learned counsel for the Respondent-University sought to put reliance upon various judgments of this court as well as Apex Court including the recent ruling of

the Apex Court in the case of **Management of Kalpataru Vidya Samasthe and Anr vs. S.B.Gupta and anr. reported in AIR 2005 SC 3458** wherein the ratio laid down to the effect that termination of service after expiry of fixed term cannot be held to be improper. Similarly in the case of **MD, U.P. Land Development Corporation and anr. vs. Amar Singh and ors. reported in (2003) 5 SCC 388**, it was held that once employees are appointed for the purpose of Scheme, they did not acquire any vested right to continue after the project is over. Similarly in the case of **Government of Himachal Pradesh vs. Nodha Ram and ors. reported in AIR 1997 SC 1445**, it was held that when the project is completed and closed due to non availability of funds, the employees have to go along with its closure. No vested right is created in temporary employment and therefore directions cannot be given to regularise their services in the absence of any existing vacancies nor the directions be given to create posts in a non-existent establishment. Therefore, it is quite clear from the catena of judgments cited on behalf of the respondents that where the appointments were purely on ad-hoc basis or on contractual basis and by efflux of time came to an end, the person holding such post could have no right to continue in the post. This is so even if the person is

continued from time to time on ad hoc basis for more than a year. In other words, he cannot claim regularisation in service on the basis that he was appointed on ad hoc basis for more than one year.

8. The factual matrix apparent from the record shows that the State Government was supposed to take over responsibility of the Scheme but subsequently refused to take the responsibility of the said Scheme. The University has also not taken over the responsibility of the Scheme and as per the agreement the petitioners were not entitled to remain in employment after 31.10.2003 and their services came to an end by efflux of time as the Scheme was closed so far as the University was concerned. No doubt the department is taken over by the State Government, but it is needless to mention that the State Government cannot be directed by this Court to absorb the present petitioners in the said department. The learned counsel for the respondent submitted that if the requirements arose in future there is possibility of publishing the advertisements in which case the petitioners would be entitled to apply through proper channel, if and when the said or similar scheme is to be revised. However, the fact remains that as on today there

is no right vested in the petitioners to claim any of the reliefs prayed for in the petitions.

. In the result all the petitions have no merit and deserve to be dismissed and stands dismissed with no order as to costs.